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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,476	08/20/2003	Peter Wanat	HAV 301	8005
50488	7590	08/04/2008		EXAMINER
ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP				HSU, RYAN
806 SW BROADWAY				
SUITE 600			ART UNIT	PAPER NUMBER
PORLTAND, OR 97205-3335			3714	
			MAIL DATE	DELIVERY MODE
			08/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/645,476	WANAT, PETER	
	Examiner	Art Unit	
	RYAN HSU	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 April 2008.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-15, 18, 19, 21-32 and 34-41 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-15, 18, 19, 21-32 and 34-41 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

In response to the amendments filed on 4/24/08, claims 1, 3, 21, 36-37 have been amended and claims 39-41 have been newly added. Claims 1-15, 18-19, 21-32, and 34-41 are pending in the current application.

Allowable Subject Matter

Claim 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 101 and 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 31, the prior art of record does not teach or suggest using a “trust-up event includes a player character subjecting itself to a medical examination, in a vicinity of a non-player character”.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 10-14, 37, and 39-41 are under 35 U.S.C. 103(a) as being unpatentable by the video game Fall Out 2 as evidenced by “Desslock: “Fall Out 2: game review” and www.nma-fallout.com and Baldurs Gate 2 as evidenced by "Baldurs Gate 2: Shadows of

Amn" by Al Giovetti and further in view of the game "The Sims" which was released on January 31, 2000 as evidenced by the screenshots and review found on www.gamespot.com written by Andrew Seyoon Park on February 11, 2000.

Regarding claims 1, 37, 39, and 41, Fall Out 2 discloses a method and a game program stored on a computer readable medium for controlling a non-player character in a computer game, that provides a squad of user-commandable characters, the squad including a player including a player character and at least one non-player character, the non-player character being commandable via the player character (*see "Desslock"*); detecting a predefined game event (*see www.nma-fallout.com, 'character system'*); and adjusting a current emotional state of the non-player character based on the game event (*ie: different options and items can change the character settings and effect the different emotional traits of the characters*) (*see www.nma-fallout.com, 'traits', 'npcs', 'skills'*). Additionally, Fall Out 2 discloses a method that allows for a selection of a non-player character reaction based on the current emotional state of a non-player character (*ie: different non- player characters can have traits adjusted based on different game events*) (*see www.nma-fallout.com, 'npcs'*). Furthermore, Fall Out 2 discloses an attribute with the character wherein when the emotional state of the non-player character is beyond a predetermined level (*ie: a characteristic or attribute of the player character*) the non-player character reaction is selected from the group consisting of a reaction that inhibits the ability of the non-player character to attack or follow commands of the player character (*ie: see 'npc' 'sulik' who attacks when he has reached the 'slaver' status see www.nma-fallout.com 'npcs'*), a self destructive act, an act of incapacitation (*ie: hit points have been reduced to 'zero' and the non-player character is dead and can no longer move or help*), and a reaction of initiating or

cooperating in an attack upon an enemy. However, the prior art of record is silent with respect to specifically teaching a trust state and instead wherein the non-player character reaction includes being unable to perform a command from the player character when the trust state of the non-player character is below a predetermined level.

In an analogous rpg game, Giovetti teaches that Baldur's gate 2 there exists a reputation state and non-player characters (npcs) react to the alignment of the player character based on the reputation and conversation choices made. In the examples taught, "too many good choices and the evil players, like Edwin, leave the party forever". This shows that when the emotional state of the non-player characters has reached below a certain threshold the interaction between the player character and the npcs change and therefore you are unable to interact or command them. As such, Baldur's Gate 2 teaches an emotional relationship between the player characters and the npcs where the actions will define a state that can result in the two characters from interacting with one another. One would be motivated to incorporate such a feature in order to create a more realistic approach to the game play. By creating an emotional state within the game, it can simulate the interaction between individual characters and therefore create a more exciting experience for the player that would make the game more realistic. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of Baldur's Gate 2 with that of Fall Out 2 to create a emotional trust state in a game to create a more realistic feeling in the game play. However, the emotional states indicators of the Fall Out 2 and Baldur's Gate are a more basic approach towards showing emotion in video games where the player is either friendly or they have fear and are unable to perform operations. Although it is displayed on the status of the state of each character with relation to other players

it is not displayed during the game play in the form shown by the applicant's drawings (it is noted that in an attempt to make a more thorough explanation, Examiner is finding prior art that shows the type of indicator and user interface that applicant is attempting to claim).

Additionally, Fall Out 2 and Baldur's Gate teaches a feature where if the current emotional state of the a non-player character reaches a predetermined state, the non-player character becomes unable to respond to one or more commands of the player character. However, Fall Out 2 and Baldur's gate does not implement corresponding command icons to be displayed and then changed to an unselectable state once a predetermined state is reached.

In analogous game, The Sims teaches an interactive simulation gaming experience where the player is asked to interact and control a "Sim" (*see 'screenshots' of Park review*). The Sims teaches various user selectable command icons and various emotional and physical indicators on the screen that deplete and can be replenished over time depending on the mood and activities performed by the "Sim". When the emotional indicators in "The Sims" reach a predetermined level (ie: when the indicators reach a red state the player is unable to select certain options as the Sims will not perform those tasks (*see Park review*)). The emotional indicators taught in the Sims are to provide a more realistic feel to the game to mimic human emotions and behavior and provides real-time game play response for the emotional state (*see Park review*). For example, if the energy level of the player is almost depleted or the emotional indicator reaches a predetermined level the player will be too depressed to perform any of the commands either because they have poor living conditions or they have not been having any fun. One would have been motivated to incorporate such features into that of a game in order to allow for a more realistic interaction between the player and the characters of the game at the time the invention

was made. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the emotional indicators of the Sims game with that of Fall Out 2 and Baldur's Gate 2 in order to have the critical relationship interaction of the game be more realistic as well as have a simple visual indicator for the player to read.

Regarding claim 2, Fall Out 2 discloses a method wherein movement of the player character is controlled by direct user input from a user input device, and movement of the non-player character is controlled by the computer game program (*see “Desselock”*).

Regarding claims 10-14, Falls Out 2 discloses a role playing game that allows a user to incorporate a squad of user-commandable characters and a predefined game event that adjusts a current emotional state of a non-player character based on the game event. Additionally, the game allows a user to select a non-player character reaction based on the current emotional state of the non-player character. Furthermore, Fall Out 2 implements a method that adjusts the characteristic traits of the characters and the non-player characters based on possession of weapons or ammunition that can cause an increase or decrease in the respective traits (*see nma, ‘basic traits’, ‘skills’, ‘karma’ and ‘npcs’*). Fall Out 2 also incorporates medicine to adjust the traits of the player characters and a GUI indicator that present the user with current state of the different attributes and skills (*see nma, ‘Character Stats’, ‘Items’*). However, although Fall Out 2 teaches several different types of emotional traits it fails to teach specifically a “fear state”. These special ‘traits’ or ‘states’ symbolize different aspects of human behavior and emotion. They are based upon the same principles well known in the gaming arts of where different gaming events will effect these different skills or attributes (*ie: health*) and therefore can increase or decrease these traits in order to mimic attributes of the virtual players. The options available

to a programmer are limitless however they are nonetheless the same from a technical perspective. As a result there is no patentable distinction from the weapons affecting strength or health or any other skill state. Therefore it would have been a simple matter of design choice and would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate any various types of traits such as a “fear state”.

Regarding claim 40, Fall Out 2 and Baldur’s Gate 2 and the Sims are games that teach the incorporation of the emotional state of the characters in a game. Specifically, the Sims teaches the display of an emotional state changing icon that includes a rise or fall in an emotional state using a bar meter. Though it does not specifically teach using arrows to indicate the rise and fall of the level it would have been a simple matter of DESIGN CHOICE to one of ordinary skill in the art at the time the invention was made to replace an bar indicator with an arrow indicator as one would expect the two to perform the same function of indicating a meter or status of a feature in the game. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of an arrow indicating a rise and fall of an emotional state in light of the game “The Sims”.

Claims 3-9, 15, 18-19, 21-30, 32, 34-36, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fall Out 2 and Baldur’s Gate 2 and The Sims as applied to claims above, and further in view of Shatterfield’s Eternal Darkness: Sanity’s Requiem Review.

Regarding claims 3-9, 15 and 19, Fall Out 2 teaches a game that incorporates a squad of player characters and non-player characters where different character traits may be incorporated and selectively altered based upon different game events and items that are used by the different

player characters. Furthermore, Fall Out 2 implements a method that adjusts the characteristic traits of the characters and the non-player characters based on possession of weapons or ammunition that can cause an increase or decrease in the respective traits (*see nma, 'basic traits', 'skills', 'karma' and 'npcs'*). Fall Out 2 also incorporates medicine to adjust the traits of the player characters and a GUI indicator that present the user with current state of the different attributes and skills (*see nma, 'Character Stats', 'Items'*). However, although Fall Out 2 teaches several different types of emotional traits it fails to teach specifically a "fear state". These special 'traits' or 'states' symbolize different aspects of human behavior and emotion. They are based upon the same principles well known in the gaming arts of where different gaming events will effect these different skills or attributes (*ie: health*) and therefore can increase or decrease these traits in order to mimic attributes of the virtual players. The options available to a programmer are limitless however they are nonetheless the same from a technical perspective. As a result there is no patentable distinction from the weapons affecting strength or health or any other skill state.

In arguendo, Giovetti teaches in Baldur's gate 2 there exists a reputation state and non-player characters (npcs) react to the alignment of the player character based on the reputation and conversation choices made. In the examples taught, "too many good choices and the evil players, like Edwin, leave the party forever". This shows that when the emotional state of the non-player characters has reached below a certain threshold the interaction between the player character and the npcs change and therefore you are unable to interact or command them. As such, Baldur's Gate 2 teaches an emotional relationship between the player characters and the npcs where the actions will define a state that can result in the two characters from interacting

with one another. One would be motivated to incorporate such a feature in order to create a more realistic approach to the game play. By creating an emotional state within the game, it can simulate the interaction between individual characters and therefore create a more exciting experience for the player that would make the game more realistic. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of Baldur's Gate 2 with that of Fall Out 2 to create a emotional trust state in a game to create a more realistic feeling in the game play. Additionally, it would have been a simple matter of design choice and would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate any various types of traits such as a "fear state". However, Fall Out 2 and Baldur's gate does not implement corresponding command icons to be displayed and then changed to an unselectable state once a predetermined state is reached.

In analogous game, The Sims teaches an interactive simulation gaming experience where the player is asked to interact and control a "Sim". The Sims teaches various user selectable command icons and various emotional and physical indicators on the screen that deplete and can be replenished over time depending on the mood and activities performed by the "Sim" (*see Park review*). When the emotional indicators in "The Sims" reach a predetermined level (ie: when the indicators reach a red state the player is unable to select certain options as the Sims will not perform those tasks (*see 'screenshots' of Park review*)). The emotional indicators taught in the Sims are to provide a more realistic feel to the game to mimic human emotions and behavior. For example, if the energy level of the player is almost depleted or the emotional indicator reaches a predetermined level the player will be too depressed to perform any of the commands either because they have poor living conditions or they have not been having any fun. One

would have been motivated to incorporate such features into that of a game in order to allow for a more realistic interaction between the player and the characters of the game at the time the invention was made. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the emotional indicators of the Sims game with that of Fall Out 2 and Baldur's Gate 2 in order to have the critical relationship interaction of the game be more realistic as well as have a simple visual indicator for the player to read.

However, Fall Out 2 and Baldur's Gate 2 and the Sims is silent with regard to how a fear state or emotional trait would be incorporated within a game when a player character is within proximity to a fear emitter or the different types of operations that are effected in the game when an emotional state is changed or effected by different game events.

In an analogous role playing game, Shatterfield teaches of a game known as "Eternal Darkness: Sanity's Requiem", herein referred to as "ED:SR". As taught by Shatterfield, Eternal Darkness incorporates a mental state or emotional state of the player character's that are affected by the events of the game. ED:SR teaches a fear state (*ie: a sanity state*) that adjusts in an increasing or reducing manner based on its proximity to a fear emitter or enemy (*see Shatterfield*). Furthermore, ED:SR implements different responses to commands when the fear state (*ie: sanity state*) reaches a predetermined level (*ie: above a certain threshold state or below a threshold state*) wherein a character reaction may include a self-destructive act or an act of incapacitation (*see Shatterfield*).

Regarding claims 18, 21-30, and 35, Fall Out 2, Baldur's Gate 2 and ED:SR implement a method that adjusts the characteristic traits of the characters and the non-player characters based on possession of weapons or ammunition that can cause an increase or decrease in the respective

traits (*see nma, ‘basic traits’, ‘skills’, ‘karma’ and ‘npcs’; Shatterfield*). Fall Out 2 also incorporates medicine to adjust the traits of the player characters and a GUI indicator that present the user with current state of the different attributes and skills (*see nma, ‘Character Stats’, ‘Items’ Shatterfield*). However, although Fall Out 2 and ER:SR teach several different types of emotional traits it fails to teach specifically a “truth state”. These special ‘traits’ or ‘states’ symbolize different aspects of human behavior and emotion. They are based upon the same principles well known in the gaming arts of where different gaming events will effect these different skills or attributes (*ie: health, sanity state*) and therefore can increase or decrease these traits in order to mimic attributes of the virtual players. Additionally, as mentioned previously the attributes that can be attributed to the state of these traits are mentioned above and incorporated herein. Furthermore, ER:SR allows the state of these emotional states to affect the virtual mental state of the non-player characters and can have adverse effects within the virtual gaming world. The options available to a programmer are limitless however they are nonetheless the same from a technical perspective. As a result there is no patentable distinction from the sanity state or any other skill state. Therefore it would have been a simple matter of design choice and would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate any various types of traits such as a “truth state”.

Regarding claim 32, Fall Out 2 discloses a method wherein an event includes a player character attacking a monster in a vicinity of a non-player character (*see Desslock*).

Regarding claims 34, 36 and 38, Fall Out 2 discloses a computer game system for emotion-based character interaction, the system comprising a computer game program having a module configured to control movement for a squad of user-commandable characters, the squad

including a player character and at least one non-player character, the non-player character being commandable via the player character (*see “Desselock”*). Additionally, Fall Out 2 discloses a non-player character module including: a game event detector configured to detect a predefined game event (*see www.nma-fallout.com, ‘character system’*); an emotional state adjustor configured to adjust a current emotional state of the non-player character based on the game event (*see www.nma-fallout.com, ‘traits’, ‘npcs’, ‘skills’*); and a non-player character reaction selector configured to select a non-player character reaction based on a current emotional state of the non-player character (*ie: the user is able to select the actions of the non-player character based on the characteristic traits of the non-player character*) (*see www.nma-fallout.com, ‘npcs’*). Furthermore, Fall Out 2 discloses an attribute with the character wherein when the emotional state of the non-player character is beyond a predetermined level (*ie: a characteristic or attribute of the player character*) the non-player character reaction is selected from the group consisting of a reaction that inhibits the ability of the non-player character to attack or follow commands of the player character (*ie: see ‘npc’ “sulik” who attacks when he has reached the ‘slaver’ status see www.nma-fallout.com ‘npcs’*), a self destructive act, an act of incapacitation (*ie: hit points have been reduced to ‘zero’ and the non-player character is dead and can no longer move or help*), and a reaction of initiating or cooperating in an attack upon an enemy.

In an analogous rpg game, Giovetti teaches in Baldur's gate 2 there exists a reputation state and non-player characters (npcs) react to the alignment of the player character based on the reputation and conversation choices made. In the examples taught, "too many good choices and the evil players, like Edwin, leave the party forever". This shows that when the emotional state of the non-player characters has reached below a certain threshold the interaction between the

player character and the npcs change and therefore you are unable to interact or command them. As such, Baldur's Gate 2 teaches an emotional relationship between the player characters and the npcs where the actions will define a state that can result in the two characters from interacting with one another. One would be motivated to incorporate such a feature in order to create a more realistic approach to the game play. By creating an emotional state within the game, it can simulate the interaction between individual characters and therefore create a more exciting experience for the player that would make the game more realistic. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of Baldur's Gate 2 with that of Fall Out 2 to create a emotional trust state in a game to create a more realistic feeling in the game play. Additionally, it would have been a simple matter of design choice and would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate any various types of traits such as a "fear state". However, Fall Out 2 and Baldur's gate does not implement corresponding command icons to be displayed and then changed to an unselectable state once a predetermined state is reached.

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Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN HSU whose telephone number is (571)272-7148. The examiner can normally be reached on 9 :00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

RH
August 1, 2008